

106TH CONGRESS  
1ST SESSION

# S. 57

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. ROBB, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employees  
5 Group Long-Term Care Insurance Act of 1999”.

1 **SEC. 2. LONG-TERM CARE INSURANCE.**

2 Subpart G of part III of title 5, United States Code,  
3 is amended by adding at the end the following new chap-  
4 ter:

5 **“CHAPTER 90—LONG-TERM CARE**  
6 **INSURANCE**

“Sec.

“9001. Definitions

“9002. Contracting authority.

“9003. Minimum standards for contractors.

“9004. Long-term care benefits.

“9005. Financing.

“9006. Preemption.

“9007. Studies, reports, and audits.

“9008. Claims for benefits.

“9009. Jurisdiction of courts.

“9010. Regulations.

“9011. Authorization of appropriations.

7 **“§ 9001. Definitions**

8 “For the purpose of this chapter, the term—

9 “(1) ‘annuitant’ means an individual referred to  
10 in section 8901(3);

11 “(2) ‘employee’ means an individual referred to  
12 in subparagraphs (A) through (D), and (F) through  
13 (I) of section 8901(1); but does not include an em-  
14 ployee excluded by regulation of the Office under  
15 section 9011;

16 “(3) ‘Office’ means the Office of Personnel  
17 Management;

18 “(4) ‘other eligible individual’ means the  
19 spouse, former spouse, parent or parent-in-law of an

1 employee or annuitant, or other individual specified  
 2 by the Office;

3 “(5) ‘qualified carrier’ means an insurer li-  
 4 censed to do business in each of the States and  
 5 meeting the requirements of a qualified insurer in  
 6 each of the States;

7 “(6) ‘qualified contract’ means a contract meet-  
 8 ing the conditions prescribed in section 9002; and

9 “(7) ‘State’ means a State or territory or pos-  
 10 session of the United States, and includes the Dis-  
 11 trict of Columbia.

12 **“§ 9002. Contracting authority**

13 “(a) The Office may, without regard to section 3709  
 14 of the Revised Statutes (41 U.S.C. 5) or any other statute  
 15 requiring competitive bidding, purchase from 1 or more  
 16 qualified carriers a policy or policies of group long-term  
 17 care insurance to provide benefits as specified by this  
 18 chapter. The Office shall ensure that each resulting con-  
 19 tract is awarded on the basis of contractor qualifications,  
 20 price, and reasonable competition to the maximum extent  
 21 practicable.

22 “(b) The Office may design a benefits package or  
 23 packages and negotiate final offerings with qualified car-  
 24 riers.

1       “(c) Each contract shall be for a uniform term of 5  
2 years, unless terminated earlier by the Office.

3       “(d) Premium rates charged under a contract entered  
4 into under this section shall reasonably reflect the cost of  
5 the benefits provided under that contract as determined  
6 by the Office.

7       “(e) The coverage and benefits made available to in-  
8 dividuals under a contract entered into under this section  
9 are guaranteed to be renewable and may not be canceled  
10 by the carrier except for nonpayment of premium.

11       “(f) The Office may withdraw an offering under this  
12 section based on open season participation rates, the com-  
13 position of the risk pool, or both.

14       **“§ 9003. Minimum standards for contractors**

15       “‘At the minimum, to be a qualified carrier under this  
16 chapter, a company shall—

17               “(1) be licensed as an insurance company and  
18 approved to issue group long-term care insurance in  
19 all States and to do business in each of the States;  
20 and

21               “(2) be in compliance with the requirements im-  
22 posed on issuers of qualified long-term care con-  
23 tracts by section 4980C of the Internal Revenue  
24 Code of 1986.

1   **“§ 9004. Long-term care benefits**

2           “The benefits provided under this chapter shall be  
3 long-term care benefits which, at a minimum, shall be  
4 compliant with the most recent standards recommended  
5 by the National Association of Insurance Commissioners.

6   **“§ 9005. Financing**

7           “(a) The amount necessary to pay the premium for  
8 enrollment of an enrolled employee shall be withheld from  
9 the pay of each enrolled employee.

10          “(b) Except as provided under subsection (d), the  
11 amount necessary to pay the premium for enrollment of  
12 an enrolled annuitant shall be withheld from the annuity  
13 of each enrolled annuitant.

14          “(c) The amount necessary to pay the premium for  
15 enrollment of a spouse may be withheld from pay or annu-  
16 ity, as appropriate.

17          “(d) An employee, annuitant, or other eligible individ-  
18 ual, whose pay or annuity is insufficient to cover the with-  
19 holding required for enrollment, shall, at the discretion of  
20 the Office, pay the premium for enrollment directly to the  
21 carrier.

22          “(e) Each carrier participating in the program estab-  
23 lished under chapter shall maintain the funds related to  
24 this program separate and apart from funds related to  
25 other contracts and other lines of business.

1       “(f) The costs of the Office in adjudicating a claims  
 2       dispute under section 9008, including costs related to an  
 3       inquiry not culminating in a dispute, shall be reimbursed  
 4       by the carrier involved in the dispute or inquiry. Such  
 5       funds shall be available to the Office for the administra-  
 6       tion of this chapter.

7       **“§ 9006. Preemption**

8       “‘This chapter shall supersede and preempt any State  
 9       or local law which is determined by the Office to be incon-  
 10      sistent with—

11               “(1) the provisions of this chapter; or

12               “(2) after consultation with the National Asso-  
 13      ciation of Insurance Commissioners, the efficient  
 14      provision of a nationwide long-term care insurance  
 15      program for Federal employees.

16      **“§ 9007. Studies, reports, and audits**

17      “(a) Each qualified carrier entering into a contract  
 18      under this chapter shall—

19               “(1) furnish such reasonable reports as the Of-  
 20      fice determines to be necessary to enable the carrier  
 21      to carry out the functions under this chapter; and

22               “(2) permit the Office and representatives of  
 23      the General Accounting Office to examine such  
 24      records of the carrier as may be necessary to carry  
 25      out the purposes of this chapter.

1       “(b) Each Federal agency shall keep such records,  
 2       make such certifications, and furnish the Office, the car-  
 3       rier, or both, with such information and reports as the  
 4       Office may require.

5       **“§ 9008. Claims for benefits**

6       “(a) A claim for benefits under this chapter shall be  
 7       filed within 4 years after the date on which the reimburs-  
 8       able cost was incurred or the service was provided.

9       “(b) The Office shall adjudicate a claims dispute aris-  
 10      ing under this chapter and shall require the contractor to  
 11      pay for any benefit or provide any service the Office deter-  
 12      mines appropriate under the applicable contract.

13      “(c)(1) Except as provided under paragraph (2), ben-  
 14      efits payable under this chapter for any reimbursable cost  
 15      incurred or service provided are secondary to any other  
 16      benefit payable for such cost or service. No payment may  
 17      be made where there is no legal obligation for such pay-  
 18      ment.

19      “(2)(A) Benefits payable under the programs de-  
 20      scribed under subparagraph (B) shall be secondary to ben-  
 21      efits payable under this chapter.

22      “(B) The programs referred to under subparagraph  
 23      (A) are—

1           “(i) the program of medical assistance under  
2           title XIX of the Social Security Act (42 U.S.C.  
3           1396); and

4           “(ii) any other Federal or State programs that  
5           the Office may specify in regulations that provide  
6           health benefit coverage designed to be secondary to  
7           other insurance coverage.

8   **“§ 9009. Jurisdiction of courts**

9           “A claimant under this chapter may file suit against  
10          the carrier of the long-term care insurance policy covering  
11          such claimant in the district courts of the United States,  
12          after exhausting all available administrative remedies.

13   **“§ 9010. Regulations**

14          “(a) The Office shall prescribe regulations necessary  
15          to carry out this chapter.

16          “(b) The regulations of the Office may prescribe the  
17          time at which and the conditions under which an eligible  
18          individual may enroll in the program established under  
19          this chapter.

20          “(c) The Office may not exclude—

21                  “(1) an employee or group of employees solely  
22                  on the basis of the hazardous nature of employment;  
23                  or



1           “(2) an employee who is occupying a position  
 2           on a part-time career employment basis, as defined  
 3           in section 3401(2).

4           “(d) The regulations of the Office shall provide for  
 5           the beginning and ending dates of coverage of employees,  
 6           annuitants, former spouses, and other eligible individuals  
 7           under this chapter, and any requirements for continuation  
 8           or conversion of coverage.

9           **“§ 9011. Authorization of appropriations**

10          “There are authorized to be appropriated such sums  
 11          as may be necessary for the purposes of carrying out sec-  
 12          tions 9002 and 9010.”.

13          **SEC. 3. EFFECTIVE DATE.**

14          The amendments made by this Act shall take effect  
 15          on the date of enactment of this Act, except that no cov-  
 16          erage may be effective until the first day of the first appli-  
 17          cable pay period in October, which occurs more than 1  
 18          year after the date of enactment of this Act.

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